The automated systems of the ILEC create the objective data needed to compare performance measures. For example, ILECs have automated data acquisition systems that count minutes and report on them in various ways. One output of the data acquisition systems (DAS) is Trunk Servicing Reports.[10] The ILECs can use these reports and the database to show whether blocking of traffic to or from a CLEC exceeds the blocking rate of the ILEC's own traffic within the ILEC's own network. Other measures are available for reporting installation intervals on loops, reporting performance on failure rates and mean time to repair and other variables. (See appendix.)

Data from OSS are a means of achieving performance parity, not the end itself.

When ILEC operational support systems (OSS) are fully operational to provide support to CLECs, performance measures can be a system byproduct. But it must be clear that data from OSS are a **means** of achieving performance parity, not the end itself. It is the **outcome of performance parity** that is required by law and is important to competition, not the means by which the results are obtained. (Actually an ILEC may choose to assemble its performance measures manually or electronically, and it may choose to interface with CLECs manually or electronically; but either way, it must provide performance parity. If it chooses to serve itself electronically and serve competitors manually, then the result of the manual performance must be "at least equal" to the electronic performance.)

Policy makers must not lose sight of the objective -- **attainment and maintenance of performance parity** -- when they perceive the existence of a robust, tested and accepted OSS for interconnection of facilities-based carriers (not just for resale of ILEC services or unbundled network elements). Even though such OSS would appear to support a presumption that an ILEC has the capability and the will to provide

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[10] These systems include Trunk Service System (TSS), Total Network Data System (TNDS) and Engineering and Data Acquisition System (EADAS).

performance parity for each category of service and functionality, the ILEC must actually show it has done so. The reason for this requirement is elementary: there are many instances where electronic bonding now exists and CLECs receive terrible service, far below the level of service the ILEC gives itself. Between electronic interfaces -- a means -- and performance parity -- the end -- lie many opportunities for ILEC personnel to disrupt schedules, appear at the wrong location, misread a symbol, or otherwise impair the quality of service experienced by CLECs.

ILEC wholesale and retail units, structurally separated, might well bolster a presumption that the parity principle has been met.

To facilitate the provision of performance measures, an ILEC may well find it expedient to restructure itself into wholesale and retail units. Especially if such units are structurally separated, the corporate structure would support objective quantitative reporting of ILEC - to - ILEC and ILEC - to - CLEC performance. In fact, such a structure might well bolster a presumption that even absent a track record showing the performance parity principle has been met, the ILEC has the capability and the will to measure compliance with the performance parity principle for all performance benchmarks. Regulators would have greater assurance that they could trace any source of failure to comply with the performance parity principle if an ILEC retail affiliate were seeking the same levels of service quality as CLECs. Nevertheless, even with separate wholesale and retail affiliates, the full array of performance measures must show the performance parity principle has been met.

Performance Parity is the foundation for Deregulation

The performance parity principle is not only the *sine qua non* of effective competition, it is also the foundation for deregulation of ILECs. The goal of the Act is competition, and when sufficient competition exists, there is no need for economic (price) regulation. When all performance measures of an ILEC are checked "yes" for performance parity, competition is likely to be well established and economic regulation of that ILEC may no longer be necessary in the public interest.

All parties stand to benefit immediately from satisfaction of the performance parity principle.

All parties stand to benefit immediately from satisfaction of the performance parity principle. The ILECs benefit because they will not be subject to repeated complaints, and can avoid lawsuits. The BOCs seeking to enter the interLATA market benefit additionally because they will satisfy the 14-point competitive checklist easily and swiftly. Regulators benefit from being able to expedite review of interLATA entry applications from BOCs, and will have to review fewer complaints from CLECs regarding ILEC violation of interconnection agreements. Instead of lengthy complaint proceedings that waste resources, swift justice can be rendered based on simple, objective numbers and graphs. CLECs benefit from good service. Consumers benefit from improved service obtained more quickly from new entrants, and from the cost savings all service providers will realize when lengthy, costly regulatory or legal action is precluded. Everyone benefits if competition becomes sufficiently robust so that no economic regulation is needed at all.

If you have questions or comments, please contact Gail Garfield-Schwartz at (718) 355-2892. e-mail: schwartz@tcg.com

Appendix

Illustrative Minimum Performance Measurements

ORDER PROVISIONING PERFORMANCE MEASUREMENTS

1. **FOC Response Time of ILEC** -- The number of days between the date that an order is submitted and ILEC establishment of a FOC (firm order commitment) for the order. A FOC sets an ILEC committed due date for the installation service order. This date is sometimes referred to as the "CCDD date". The original requested due date is referred to as "CDDD date".
2. **Scheduled Install or Turn-Up Interval** -- The number of days between the date that an order is received and the date that the order is due to be performed. This performance category measures the average *scheduled* time-frame for completion of installations or turn-ups, rather than the *actual* time-frame.
3. **Percent CCDD on Time** -- The total number of service orders that were completed on the ILEC's committed date divided by the total number of service orders. This measurement does not distinguish between original FOC dates and rescheduled FOC dates.
4. **Percent CDDD on Time** -- The total number of service orders that were completed on the CLEC's requested date divided by the total number of service orders.
5. **Mean Install Time (Actual)** -- The mean average of the total number of days that the ILEC *actually* took to process installation orders during the reporting period.
6. **Standard Deviation of Mean Install Time (Actual)** -- The standard deviation of the mean average of the total number of days that the ILEC *actually* took to process installation orders during the reporting period.

ONGOING SERVICE PERFORMANCE MEASUREMENTS

1. **Number of Failures** -- The total number of trouble reports for which the source of the trouble was determined to be the ILEC's service problem.
2. **Percent Failure Rate** -- The total number of failures divided by the total number of relevant events -- e.g., circuit turn-ups, NXX code activations or collocations -- which the ILEC provides.

3. **Percent Availability** – Percentage of time that the ordered circuits are available. To determine this percentage, the ILEC-provider should do the following:
   - ▸ Multiply the total number of circuits by the total hours in the report period to establish the total hours of service availability for the report period.
   - ▸ Add all of the measurable time (hours and minutes) for only the Network Reports to establish the total non service availability hours for the report period.
   - ▸ Subtract the "non service availability" hours from the "total service availability" hours; to obtain the percentage available, divide the result by the "total service availability" hours.
4. **Mean Time to Repair (MTTR)** – Mean average of the time to restore service on a trouble call (from the time the ILEC-provider receives a trouble call until the service is restored).
5. **Standard Deviation of the Time to Repair (MTTR)** -- The standard deviation of the mean average of the time to restore service on a trouble call (from the time the ILEC-provider receives a trouble call until the service is restored).
6. **Out of Service - Cleared >4 Hours (Percentage)** -- The percentage of outages which took longer than 4 hours to clear.

CODE ACTIVATION PERFORMANCE MEASUREMENTS

1. **Code Activation Performance (Actual)** -- The accuracy of opening CLEC NXX codes in all appropriate ILEC central offices after notification in LERG.
2. **Code Assignment Interval** -- The number of days between the date the CLEC requests a new code from the code administrator (when the code administrator is the ILEC) to the date the code is assigned to the CLEC.

DATA ENTRY PERFORMANCE MEASUREMENTS

1. **Mean Time to Enter Data (Actual)** -- The mean average of the total number of days that a ILEC *actually* took to enter data during the reporting period.
2. **Error Rate for Data Entries** -- The number of times that incorrect data is entered divided by the total number of entries during the reporting period.

CALL BLOCKING BETWEEN NETWORKS

1. **Percent Calls Blocked** -- The total number of calls blocked from an ILEC network completing to a CLEC network due to insufficient trunking as a percentage of all call attempts. This would be compared to call blockage percentages on calls completely in the ILEC network.

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Model Regulatory Procedures for The Enforcement of Interconnection Agreements

November 1997

Teleport Communications Group

One Teleport Drive, Staten Island, New York 10311

Enforcement of Interconnection Agreements

Enforcement of Interconnection Agreements between incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) is the province of the state regulatory agencies according to the Eighth Circuit Court of Appeals.[1] State regulators must exercise this responsibility expeditiously to further the public interest in having a competitive choice among local telecommunications carriers. The critical need for speedy action was underscored earlier this year by the Iowa Utilities Board, the first state public utility commission (PUC) to impose civil penalties on a recalcitrant ILEC (U. S. West):

> "The timely implementation of the interconnection agreement ... is a matter of highest public policy importance under Iowa code ..., and under the Federal Telecommunications Act of 1996. It is essential to the development of local service competition that U. S. West comply with the implementation schedule set by the board."[2]

Moreover, states may not erect or maintain barriers to entry in the local telecommunications market, and cumbersome regulatory processes that themselves delay implementation of Interconnection Agreements certainly constitute a barrier to entry, because they favor incumbents.[3]

With few exceptions, 100 percent of local exchange service customers still take ILEC service. Thus ILECs have a strong market incentive to delay implementation of Interconnection Agreements because delay may accomplish four ILEC objectives: it keeps customers from selecting a CLEC;

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[1] Iowa Utilities Board v. FCC, 120 F. 3d 753 (July 18, 1997).

[2] Order Finding Continuing Violation and Levying Civil Penalties. State of Iowa, Department of Commerce, Utilities Board. Docket No. AIA-96-1 (ARB-96-1) In Re: AT&T Communications of the Midwest, Inc., and U S West Communications, Inc. April 4, 1997.

[3] 47 U.S.C. § 253 (a).

it can limit CLEC revenues; it drives up CLEC regulatory costs; and it forces CLECs to divert resources away from investment in competitive infrastructure in order to participate in dispute resolution processes.

ILECs may seek to evade their Interconnection Agreement obligations in different ways. One way is to "reinterpret" the terms of the agreement, for example, saying they did not "intend" a specific definition when they signed the agreement. Another way is to declare a dispute over facts, such as traffic volumes, to create a "billing dispute." So long as a "billing dispute" remains unresolved, the ILEC can avoid paying a CLEC. A third way is to experience "technical difficulties" of various kinds to "excuse" performance that impairs CLECs reputations. A fourth way is to claim that CLECs have failed to provide needed information to enable ILECs to meet their obligation to provide interconnection, collocation, or access to unbundled network elements. Neither these nor any other attempts to delay interconnection and CLEC access to unbundled elements is lawful, but already, it is clear that some ILECs are more than willing to risk having their actions declared impermissible and even to risk financial penalties, in order to frustrate and delay local exchange competition for as long as possible.

Unfortunately, the requirement and opportunity to enforce Interconnection Agreements find some state regulatory agencies totally unprepared.[4] Understandably, many state regulatory agencies are not experienced in what is, in essence, quasi-judicial contract enforcement. State administrative procedures, established by state legislatures to enable state regulators to protect ratepayers from monopoly abuse, are not designed to adjudicate contract disputes between businesses who are interdependent rivals. Thus new, focussed, and streamlined state regulatory procedures are needed to permit **swift enforcement of Interconnection Agreements as contracts.**

Enforcement of Interconnection Agreements is very different from traditional regulatory processes.

[4] Notable exceptions may be Iowa, New York and Maryland, all of which acted swiftly in dealing with Bell Operating Company attempts to avoid obligations under specific interconnection agreements.

Regulatory proceedings, especially rate cases but also service quality enforcement and other types of proceedings, accustom Commissions to "cut the baby in half" solutions -- that is, to render a decision that balances the interests of two parties (usually telecommunications service providers and consumers) more or less equally. Enforcement of Interconnection Agreements demands a completely different decision criterion. The Commission must decide what the Agreement said, how parties' actions pursuant to the disputed portions of the Agreement reflect the intent of the parties in meeting the requirements of the Act, and whether the actions taken by the parties give effect to that intent. Enforcement of Interconnection Agreements rarely should result in a "compromise" as in a traditional regulatory proceeding, but rather in most cases should result in a finding for or against the complainant, as in a traditional contract dispute. **Because in approving the Agreement initially the Commission has already found its terms to be nondiscriminatory and in the public interest, the public interest can only be served by enforcing the agreement as written.**

Of course it is self evident that the Commission must not during enforcement permit either party to re-litigate the Interconnection Agreement itself, by arguing that circumstances have changed or otherwise. Enforcement must proceed as in interpretation of a contract, with the added consideration that the Interconnection Agreement is a special type of contract that has already been found to serve a public purpose and must be enforced so as to actually accomplish the objectives of the Telecommunications Act of 1996.

Resolving a dispute between businesses about business practices pursuant to an Interconnection Agreement should not involve any parties other than those businesses. This would simply prolong the proceeding, give rise to attempted intervention by parties with no financial or operational interest in the outcome of the dispute, and create yet another incentive for the ILEC to delay resolution and to actually create sham disputes.

Just as many normal commercial contract disputes are resolved through binding arbitration, enforcing some Interconnection Agreements could be more **akin to commercial arbitration** than

to regulatory functions. Thus it is also necessary for PUCs to consider whether particular personnel experienced in regulatory processes have the background and training to effectively conduct enforcement proceedings. If a hearing examiner's or administrative law judge's (or Commissioner's) knowledge of relevant contract law is limited, and/or if the person has had no experience with arbitration, a Commission may decide to assign an enforcement proceeding to a commercial arbitrator. In the interest of time, too, it might be appropriate for a Commission to appoint an outside arbitrator to conduct enforcement proceedings. At the very least, Commissioners should if needed provide the staffer or Commissioner acting as hearing examiner with special training as an arbitrator.[5]

TCG offers the following Model Regulatory Procedures for the Enforcement of Interconnection Agreements. In some cases amendments to the state administrative procedures' laws may be necessary to permit the regulatory agencies to adopt streamlined procedures. The Model, with appropriate rewording, could also serve as Model Legislation.[6]

[5] TCG believes that ideally the parties should be free to agree to have their dispute resolved by a commercial arbitrator, rather than submit it to a PUC.

[6] The model draws heavily on Illinois SB 700 Amending the Public Utilities Act 220 ILCS 5/13.

MODEL REGULATORY PROCEDURES FOR SWIFT ENFORCEMENT OF INTERCONNECTION AGREEMENTS

Purpose

The federal Telecommunications Act of 1996 established the national goal of opening all telecommunications service markets to competition and accords to the states the responsibility to establish and enforce policies necessary to attain that goal.

It is in the immediate interest of the People of the [state] for the State to exercise its responsibilities and rights within the new federal statutory framework to ensure that all the benefits of competition in all telecommunications service markets are realized as effectively as possible.

Protection of the public interest requires changes in the regulation of telecommunications carriers and services to ensure, to the maximum feasible extent, the reasonable and timely development of effective competition in all telecommunications service markets.

It is necessary and appropriate to establish rules to encourage and ensure orderly transition in the development of markets for all telecommunications services and to promote effective and sustained competition in all telecommunications markets.

For the purpose of the adoption of such rules, telecommunications service" means [existing definition] and also includes interconnection arrangements and services and access to unbundled network elements of incumbent local exchange carriers pursuant to the Telecommunications Act of 1996.

Adoption and Authority

The [State PUC] herewith adopts enforcement rules and procedures that ensure that interconnection

arrangements entered into by carriers and approved by the [PUC] are implemented and enforced. The Commission has general rulemaking authority to make rules necessary to enforce these rules and procedures consistent with the Telecommunications Act of 1996 and [applicable state statute].

Rules

1. PROHIBITED ACTIONS OF TELECOMMUNICATIONS CARRIERS. A telecommunications carrier shall not knowingly impede the development of competition in any telecommunications service market. The following prohibited actions are considered *per se* impediments to the development of competition:

   a. Refusing or delaying interconnections or providing inferior connection to another telecommunications carrier;

   b. impairing the speed, quality or efficiency of services used by another telecommunications carrier;

   c. denying a request of another provider of telecommunications for information regarding the technical design and features, geographic coverage, information necessary for the design of equipment, and traffic capabilities of the local exchange network, except in the case of proprietary information, in which case the disclosure of such propriety information may be required, subject to proprietary agreement or protective order;

   d. delaying access in connecting another telecommunications carrier to the local exchange network whose product or service requires novel or specialized access requirements;

e. refusing or delaying access by any person to another telecommunications carrier, including but not limited to preventing the access by a tenant or occupant of a building to a carrier of his or her choice, or acquiescing to such prevention;

f. acting, or failing to act, in a manner that has a substantial adverse effect on the ability of another telecommunications carrier to provide service to its customers;

g. violating the terms of or unreasonably delaying implementation of an Interconnection Agreement entered into pursuant to Section 252 of the federal Telecommunications Act of 1996 in a manner that unreasonably delays or impedes the availability of telecommunications services to consumers;

h. other actions that impede competition.

2. ENFORCEMENT. The Commission shall enforce the rules set forth in Section 1. Unless the Commission and the parties otherwise mutually agree, the Commission shall use the procedures set forth in this Section for the review of complaints relating to violations of Section 1 or Interconnection Agreements.

3. COMPLAINT RESOLUTION BY CARRIERS. A carrier having a complaint regarding an action prohibited by Section 1 or an Interconnection Agreement with another carrier must notify the respondent of the alleged violation in writing. A complainant must either (a) exhaust the specific dispute resolution process provided for in its Interconnection Agreement with the respondent, or (b) offer the respondent 48 hours to correct the situation prior to filing any complaint under this Section. Provision of notice or the opportunity to correct the situation creates a rebuttable presumption of knowledge under either action.

4. COMPLAINT PROCESS. If no resolution is reached under 3(a) or 3(b), the complainant may file with the Commission and initiate the complaint process.

a. the complaint shall be filed with the [appropriate officer] of the Commission and shall be served in hand upon the respondents;

b. at any time following the filing of the complaint, parties may commence reasonable discovery. Parties must respond to the discovery request within fourteen days after the date the request is made;

c. responsive pleading to the complaint must be filed with the Commission within seven days after the date the complaint is filed;

d. a determination of grounds for the complaint and, if necessary, a directive for legal notice will be made within three days after the date the response is filed;

e. a pre-hearing conference before the Commission's designated hearing examiner or arbitrator will be held within fourteen days after the date the complaint is filed;

f. the hearing shall commence within thirty days after the date the complaint is filed;

g. the hearing examiner [arbitrator] shall issue its decision within sixty days after the date the complaint is filed;

h. the hearing examiner's [arbitrator's] decision shall be considered a final order ten days after the date the decision is issued, unless the Commission issues its own final order within ten days after the date the hearing examiner or arbiter issued its decision.

5. REQUEST FOR EMERGENCY RELIEF. If the alleged violation has substantial adverse effect on the ability of the complainant to provide service to customers, the complainant may include in its complaint a request for emergency relief. The Commission shall address the request in accordance with the following:

   a. the Commission, acting through its designated hearing examiner [arbitrator], shall issue a decision regarding the request within two business days of the date the complaint is filed;

   b. the decision of the hearing examiner [arbitrator] shall be considered an order unless the Commission itself issues its own order within two calendar days of the date the hearing examiner's [arbitrator's] order.

6. INJUNCTIVE RELIEF. If the Commission believes that there is an imminent threat to competition or to other aspects of the public interest, the Commission may, notwithstanding any other provision of this rule, seek temporary, preliminary, or permanent injunctive relief from a court of relevant jurisdiction either prior to or after the hearing.

7. PENALTIES. Upon completion of the hearing and a determination that all or any portion of Section 1 of the Commission's rules have been violated, the Commission shall impose penalties on the telecommunications carrier(s) that has (have) violated the rules.

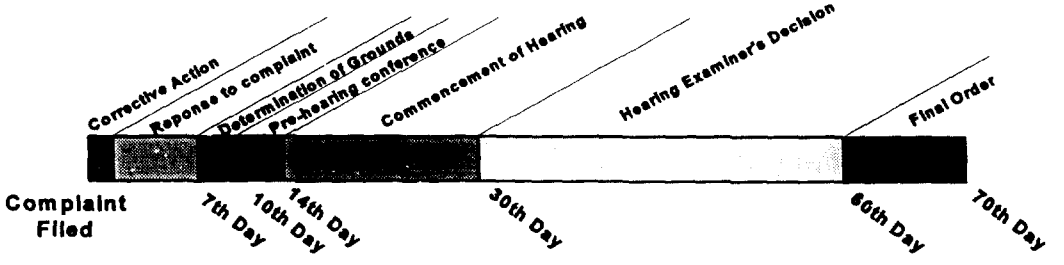
   a. The party or parties responsible for the violation shall each pay the complainant an amount equal to three times the complainant's lost revenue and added costs resulting from the violation(s), or $30,000 per violation, whichever is greater;

   b. each day that the violator was in violation of the rule shall be considered a separate violation;

c. such penalties shall be in addition to any liquidated damages provided for in the interconnection agreement which is the subject of the complaint.

8. RECOVERY OF THE COMMISSION'S COSTS. The Commission shall assess the losing party or parties for the Commission's costs of investigating and conducting the complaint proceeding. If parties settle before a final decision, commission costs are divided equally, unless parties agree otherwise in settlement.

Recommended Response Times for Swift Enforcement



For further information, please contact Gail Garfield Schwartz at (718) 355-2892 or e-mail to: schwartz@tcg.com.

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Model Performance Parity Measures for Facilities-Based Competition

November 1997

TCG

Teleport Communications Group

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INTRODUCTION

TCG's *The Performance Parity Principle* (July 1997), discussed the duty of incumbent local exchange carriers ("ILECs") under the Telecommunications Act of 1996 ("Act") to provide competitive local exchange carriers ("CLECs") with interconnection and access to unbundled network elements that is at least equal to that the ILECs provide to themselves. TCG refers to this statutory requirement as the **performance parity principle.**[1] In this paper, TCG proposes Model Performance Parity Measures for which ILECs should be required to provide comparative data to demonstrate their compliance with the performance parity principle. For each measure, TCG describes *"what"* the measure is and *"why"* it is necessary.

The proposed performance measures for interconnection and access to unbundled ILEC network elements reflect the fact that only facilities-based competition is **real** local exchange competition. Resellers of local exchange service simply rebrand ILEC services; facilities-based carriers, on the other hand, seek to differentiate their services from ILECs' services by offering state-of-the-art technology, unique service packages and the highest service quality at the most competitive price.

The primary potential impediment to robust facilities-based local exchange competition is the ILECs' legacy control over key telecommunications facilities which can degrade a facilities-based CLEC's performance. Just as the weakest link in a chain determines the strength of the entire chain, so does the worst-performing component of a telecommunications service determine the quality of that service. CLECs forced to accept substandard interconnection or access to unbundled ILEC elements will suffer because customers will assume that the CLEC, not the ILEC, is causing poor quality service. Therefore, facilities-based competitors must enjoy interconnection arrangements and access to unbundled elements that are **at least** equal in quality to that provided by the ILEC to its own retail operations or to any other carrier or wholesale customer, **whichever is higher.**[2]

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[1] *The Performance Parity Principle* is available on TCG's website at www.tcg.com.

[2] 47 U.S.C. §251(c). Section 251(c)(2)(C) of the Act imposes on ILECs "the duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network

The "whichever is higher" criterion is essential because an ILEC has an incentive to provide the best possible service to its largest customers (including reseller CLECs who, as rebranders, are in effect ILEC "sales agents"). So, it is important not to limit parity comparisons solely to the service quality the ILEC provides to itself. CLECs must also receive service equal to that which the ILEC provides its best customers. Otherwise, consumers will be robbed of competitive choice in the local telecommunications marketplace. Consumers must be able to judge a competitor on the added value it brings to the market.

All parties will benefit most from performance parity reports that lead directly to a "yes" or "no" answer: "yes" the ILEC provided parity for each performance measure, or "no" it did not. CLECs and regulators must be able to see quantitative data -- or performance measures -- and easily identify whether the ILEC has met its performance parity requirements. A comparison of data sets, one reflecting the ILEC's performance to itself (as well as affiliates and ten largest commercial clients), and others reflecting the ILEC's performance for each CLEC with which it interconnects, will quickly reveal whether the performance parity principle has been satisfied. In certain cases, tests of statistical significance will be required where there are differences in the absolute numerical outcomes reported for CLECs and ILECs.

TCG proposes 38 initial performance measures for monthly ILEC reporting. TCG believes that **all these measures should be required by state regulators immediately**. CLECs cannot be asked to "give up" any measures in order to be "assured" that other measures will be made and reported, for this would simply give the ILEC a welcome incentive to "game" the process of providing performance parity. Performance parity reports should be given to each CLEC on itself, on the ILEC, on the ILEC's ten largest customers taken as a group, and on all CLECs taken as a group. When reporting on its performance parity *vis à vis* each CLEC, the ILEC should of course confine

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. . . that is at least equal to that provided by the local exchange carrier to itself **or** to any subsidiary, affiliate, **or** any other party to which the carrier provides interconnection." (emphasis added). Section 251(c)(3) of the Act further imposes on the ILEC "the duty to provide, to any requesting telecommunications carrier for the provision of telecommunications service, nondiscriminatory access to network elements on an unbundled basis . . .." FCC rule 51.311(b) establishes that "nondiscriminatory" access with respect to unbundled elements means access that is, in fact, "at least equal" in quality.

its measures to its performance within the geographical area served by the ILEC central offices within that CLEC's service territory.

Both regulators and carriers already have plenty of experience in measuring quality of performance. ILECs monitor their own performance in most critical areas. State commissions require ILECs to file service quality data in regular reports to ensure that customers receive adequate service. In addition, the FCC requires BOCs and other large ILECs to file service quality data which the FCC publishes in the annual report, "Quality of Service for Local Operating Companies Aggregated to the Holding Company Level." So, federal and state regulators have already set a precedent in asking for essentially the same type of service quality information that TCG asks the ILEC report on, and the ILECs already have experience in measuring and reporting on these types of performance categories. In some cases, where no existing internal measurement is performed by the ILEC (to TCG's knowledge), TCG proposes a reasonable proxy to demonstrate performance parity.

All parties stand to benefit immediately from satisfaction of the performance parity principle. The ILECs benefit because they will not be subject to repeated complaints, and can avoid lawsuits. The Bell operating companies ("BOCs") seeking to enter the interLATA market benefit additionally because they will satisfy the 14-point competitive checklist easily and swiftly.[3] Regulators benefit from being able to expedite review of interLATA entry applications from BOCs, and will have to review fewer complaints from CLECs regarding ILEC violation of interconnection agreements. [4] When CLECs benefit from good ILEC service, consumers benefit from improved service obtained more quickly from CLECs. Consumers also benefit from the cost savings all service providers will

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[3] 47 U.S.C. § 271 (c)(1)(B).

[4] The Department of Justice places great weight on the importance of performance benchmarks. In recommending denial of SBC's interLATA application in Oklahoma, the Department stated: "A record of performance benchmarks measured in an objective fashion -- and, if possible, commitments to maintain such standards -- is key to preventing the BOC from backsliding . . .Without such benchmarks in place, competitors and regulators will have considerable difficulty in detecting deterioration of wholesale support processes . . . ." Evaluation of the U.S. Department of Justice, In re Application of SBC Communications Inc. Et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma, CC Docket No. 97-121 (May 16, 1997).

realize when lengthy, costly regulatory or legal action is precluded. Finally, everyone benefits if competition becomes sufficiently robust so that no economic regulation is needed at all.

In view of the critical need for performance benchmarks to promote competition, and the tremendous benefits such benchmarks will afford all parties, it would serve state public utility commissions (PUCs) well to immediately establish the measures for which comparative data are to be recorded by ILECs. A nationally uniform reporting format would make it easier and less costly for all parties: regulators, ILECs and CLECs. State commissions should be free to add to national performance measures should they be required to do so by state legislation or should the state commissions otherwise find it appropriate to do so. States that adopt the uniform reporting standards will reduce uncertainty and attract further investment by entrants. NARUC can play a constructive role in ensuring consistency across states by encouraging the adoption of a model reporting template for ILECs in all states.[5]

Whatever measures are adopted, they must account for the transition from manual to electronic communication between carriers. In the short run, CLECs and ILECs will communicate with each other by "manual" means, such as telephone conversations and fax. Over time, electronic interfaces between CLEC and ILEC databases will be developed and deployed. Thus, model performance measures must account for both modes of communication between carriers. There may be multiple forms of interfaces (e.g., dedicated connections, Internet access, etc.), and the performance measure requirements must recognize the CLECs' right to choose among these various options.

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[5] The performance parity principle applies to all ILECs per section 251 of the Act. Section 251(e) of the Act allows smaller carriers to be exempted from such requirements and the reporting requirements suggested in this paper upon showing that the ILEC would face undue economic burdens as a result and that such an exemption would be in the public interest.